



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

**MINUTES**  
of  
**BOARD MEETING**  
Held on  
**December 11, 2009**

Meeting Location: RAYTHEON COMPANY  
870 Winter Street  
Waltham, Mass.

Prepared by: T. Wood

[Approved: February 18, 2010]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 3:24 p.m. The other Board members present were Gail Batchelder, Deborah Farnsworth, Kirk Franklin, Jack Guswa, Christophe Henry, Gretchen Latowsky, Robert Luhrs, Kelley Race, and Debra Stake. Board members absent: none. The LSP Board staff members present were Lynn Read, Brian Quinlan, Terry Wood, Al Wyman, and Ron Viola. Also present was Wes Stimpson of the LSP Association.
2. **Announcements:** Ms. Commerford stated that she was sad to announce that Ron Viola had been laid off due to budget cuts and that his last day would be December 31, 2009. She also announced that a retirement party was being held for Allan Fierce today beginning at 4:30 p.m. and, therefore, the Board should aim to be done with today's business by 4:15 p.m.
3. **Agenda:** The Board members agreed to amend the draft agenda to add an Executive Session at the end.
4. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on October 29, 2009. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
5. **Reports from Recent Quasi-Judicial Sessions:** The staff requested and received the Board's unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

**Final Order Re: Complaint 99C-11 and 00C-14**

On October 29, 2009, after conducting deliberations at quasi-judicial sessions in meetings and telephone conferences in 2008 and 2009 including but not limited to July 17, 2008, August 21, 2008, September 18, 2008, October 2, 2008, December 5, 2008, December 18, 2008, January 21, 2009, February 3, 2009, March 13, 2009, April 14, 2009, May 27, 2009, June 25, 2009, and October 29, 2009, the Board voted unanimously to issue its Final Findings and Rulings in disciplinary matters 99C-11 and 00C-14. In these Final Findings and Rulings, the Board found that, based on its review of the Recommended Decision and the record of the adjudicatory hearing, sufficient grounds existed to take disciplinary action against this LSP.

This matter stems from a Complaint filed with the Board by a private party in May 1999, and a second complaint filed by MassDEP in August 2000. After an investigation, the Board issued an Order To Show Cause in 2003, and suspended the LSP's license effective immediately, finding that an imminent threat to public health, safety or the environment could result before an adjudicatory proceeding could be concluded. The LSP objected to the Amended Proposed Order, requested an adjudicatory hearing on the findings that he violated the Rules of Professional Conduct, and requested an immediate hearing on the necessity for the immediate suspension of his license. In February 2004, the Board held a public hearing on the necessity for the immediate suspension. After that hearing, the Board rescinded the immediate suspension and reinstated the LSP's license pending the outcome of the adjudicatory hearing. The Division of Administrative Law Appeals conducted the adjudicatory hearing on seven days between October and December 2005. The Magistrate issued his Recommended Decision on May 19, 2008.

The two Board members who served on the Complaint Review Team, Ms. Phillips and Mr. Roberts, are no longer members of the Board. There are no other Board members who are recused from participating in the Board's deliberations in this matter.

The Board members who participated in deliberations and signed the Final Findings and Rulings were as follows: Ms. Batchelder, Ms. Commerford, Ms. Farnsworth, Mr. Franklin, Mr. Guswa, Mr. Henry, Ms. Latowsky, Mr. Luhrs, Ms. Race, and Ms. Stake.

The Respondent LSP's name was not kept confidential during these discussions, because the Board was aware of the LSP's identity due to his presence at the hearing on the immediate suspension. The LSP's name is Joel Loitherstein.

6. **Decisions Regarding License Applicants:** The staff announced that there were no Application Dockets to present this month.

7. **License Renewal Applications:**

**A. Renewal Dockets.** The staff presented the following License Renewal Dockets:

**Renewal Docket #1**

Renewal Date: October 30, 2009

Have met all requirements for renewal.

New Renewal Date: October 30, 2012

- |                          |       |
|--------------------------|-------|
| 1. Glenn A. Carlson      | #2974 |
| 2. Peylina Chu           | #1506 |
| 3. Michael J. Elliott    | #5481 |
| 4. Christian C. Fahy     | #6708 |
| 5. Lawrence Feldman      | #8107 |
| 6. Michael S. Gitten     | #7505 |
| 7. Benjamin P. Gregson   | #4161 |
| 8. Gregg W. McBride      | #6048 |
| 9. Ronald E. Myrick, Jr. | #2715 |
| 10. Michael C. Penney    | #5166 |
| 11. Vincent W. Spada     | #6603 |
| 12. John C. Swallow      | #6331 |

**Renewal Docket #2**

**Request for 90-day Extension**

Renewal Date: October 30, 2009

Qualifying for and requesting a 90-day extension.

New Renewal Date: January 28, 2010

- |                       |       |
|-----------------------|-------|
| 1. David R. MacDonald | #2173 |
|-----------------------|-------|

**Renewal Docket #3**

Renewal Date: January 30, 2010

Has met all requirements for renewal.

New Renewal Date: January 30, 2013

- |                   |       |
|-------------------|-------|
| 1. Cole E. Worthy | #6812 |
|-------------------|-------|

**A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1 and #3 for a three-year period ending on the dates indicated and to grant a 90-day extension to the LSP on Renewal Docket #2. The motion was approved unanimously.**

**B. Other Renewal-related Matters.** The staff reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

**7. Other Licensing-Related Matters:**

**A. New Panel Assignments and Scheduling.** Mr. Quinlan announced that no applications had been received since the previous Board meeting. Therefore, there was no need to establish any new Application Review Panels.

**B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.

**C. Inactive Status Report.** The staff reported the following change to the list of Inactive LSPs:

- No changes since previous meeting
- A total of 5 LSPs are currently on Inactive Status

**D. Total Number of Active and Inactive LSPs.** The staff reported that the total number of Active LSPs as of the date of this meeting was 554 as of 12/09/09.

**E. Revisions to Application Form and Instructions.** Mr. Viola reported that he tested the new electronic application forms and they appear to work. Ms. Wood stated that a new beta version of the application will be posted on the Board's Web site with a request that anyone finding errors inform Board staff. Ms. Wood also reported that she decided that new draft instructions to the exam not be posted at this time.

**8. Examinations:**

**A. New Licensees.** The staff reported that the following approved applicants passed the licensing exam and are now LSPs:

	<u>Exam Date</u>
• John E. Harvey (#2002)	12/2/09
• Dawn M. Oliveira (#3432)	12/2/09
• Derek C. Volkin (#1708)	12/2/09

**B. Next LSP Exam.** The staff reported that the next exam administration date is yet to be determined.

**C. Electronic Administration of Exam.** The staff reported that no glitches occurred at the December 2<sup>nd</sup> administration of the exam but one of the test-takers had requested prior to the exam day to take a paper exam.

The Board members suggested that the exam subcommittee reconvene in the near future to review applicants performance on the new versions of the exam.

**9. Continuing Education Committee Report:**

**A. Course and Conference Approval Requests.** Mr. Henry and Mr. Wyman reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Sponsor: NWGA

Course Title: Monitored Natural Attenuation: Mechanisms, Site Characterization, Evaluation, and Monitoring

Credits Requested: 16 Technical Credits

Committee Recommendation: **Approve.**

Sponsor: NWGA

Course Title: Advanced Techniques for Evaluating and Quantifying Natural Attenuation

Credits Requested: 16 Technical credits

Committee Recommendation: **Approve.**

Sponsor: SETAC

Course Title: Introduction to Green Chemistry

Credits Requested: 6 Technical Credits

Committee Recommendation: **Table.**

Sponsor: UNH

Course Title: The Dynamic Earth

Credits Requested: 58 Technical Credits

Committee Recommendation: **Approve.**

Sponsor: Nielsen

Course Title: 2010 North American Environmental Field Conference and Exposition

Credits Requested: 1:2 Technical Credits

Committee Recommendation: **Approve.**

Sponsor: UMass Amherst

Course Title: Geothermal Heat Pumps: Concept to Completion

Credits Requested: 14 Technical credits

Committee Recommendation: **Approve for 4 technical non-DEP credits.**

The Committee asked the Continuing Education Coordinator to contact the course provider to request more detailed information regarding course content.

**A motion was made and seconded to accept the Committee's recommendations. The motion was approved unanimously.**

10. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day, the Board agreed to forego a Committee report.
11. **Personnel, Budget, and Fees:** Ms. Commerford stated that both the Board and MassDEP have lost good proportions of their staffs over the last couple of months. She stated that MassDEP is considering ways to manage with the remaining staff and added that the Board will be able to offer a reduced level of service unless Ron Viola's position is back-filled.
12. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that she has no new information.
13. **Other Business:** Mr. Guswa stated that the LSP Association's loss prevention committee has been hearing concerns from the membership that many LSPs, including LSPs with pending disciplinary complaints, do not understand the Board's disciplinary process. The consensus of the Board was that the reduced Board staff should not spend time doing extra work right now but might check to see if any documents already exist that outline the steps in the disciplinary process and, if not, might prepare one as time permits in the future.
14. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on February 18, 2009, at a location to be determined.
15. **Enter Executive Session:** **A motion was made and seconded that the Board enter Executive Session for the purpose of discussing personnel matters and thereafter to adjourn and not return to public session. The motion was approved 10-0 on a roll call vote.** Ms. Commerford conducted a roll-call vote. Each member present voted as follows:

Ms. Batchelder	Aye	Ms. Latowsky	Aye
Ms. Commerford	Aye	Mr. Luhrs	Aye
Ms. Farnsworth	Aye	Ms. Race	Aye
Mr. Frankin	Aye	Ms. Stake	Aye
Mr. Guswa	Aye		
Mr. Henry	Aye		

At 3:50 p.m. the Board entered into Executive Session.